IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

SECOND APPEAL NO.273/2007

Ganpat Sayanu Bhilang and another

...Versus...

Baliram Rajaram Sarode

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	**Court's or Judge's orders**

(Shri J.B. Kasat, Adv. for appellants)

CORAM :- A.B. Chaudhari, J.
DATED :- 31**.10.2007**

Heard learned Counsel for the appellants.

Perused the impugned judgments recorded by the Courts below. The appellants claimed right of way to land Gat Nos.99, 98, 93, 92, 83/2 and 83/1 shown by letters DCBA in the plaint map (Exh.52).

The claim was sought to be proved by the appellants/plaintiffs only on the basis of oral evidence. No documentary evidence was at all attempted to be brought on record. The case was thus merely based on oral evidence which has not been accepted by both the Courts below. Both the Courts below therefore refused to believe that the way claimed by the appellants existed and in the absence of documentary evidence to that effect

dismissed the suit.

The learned Counsel for the appellants relied on the report of Court Commissioner and argued that, that was the best evidence for coming to conclusion about the existence of right of way. I do not think so, since the right of the way or customary rights of the way are the matters of public record and that cannot be found out on the basis of Commissioner's report.

The findings recorded by the Courts below are concurrent and no substantial question of law is involved in the Second Appeal. The Second Appeal is dismissed. No order as to costs.

JUDGE

ssw